

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

April 20, 2010

Lyle W. Cayce
Clerk

No. 09-30515

Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

PATRICK D. LOMAS,

Defendant-Appellant

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:97-CR-42-1

Before SMITH, PRADO, and HAYNES, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Patrick D. Lomas argues that the district court abused its discretion when it denied an 18 U.S.C. § 3582(c)(2) reduction to his sentence because the district court failed to provide case-specific reasons based upon 18 U.S.C. § 3553(a) and the policy statements of the Guidelines. He also argues that the district court improperly considered his post-incarceration conduct. The Government has moved for summary affirmance.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Lomas's argument that the district court abused its discretion by failing to discuss the § 3553(a) factors and the Guidelines is unavailing. In *United States v. Evans*, 587 F.3d 667, 671-74 (5th Cir. 2009), *petition for cert. filed* (Jan. 28, 2010) (No. 09-8939), this court emphasized that § 3582(c)(2) proceedings are not full resentencings, and a § 3582(c)(2) motion may be disposed of summarily, without case-specific reasons. Similarly, Lomas's argument that the district court improperly considered his post-incarceration conduct is unavailing, as this circuit has recently made clear that post-incarceration conduct may be considered in § 3582(c)(2) proceedings. *See United States v. Smith*, 595 F.3d 1322, 1323 (5th Cir. 2010); *Evans*, 587 F.3d at 673 n.10.

Lomas's arguments thus fail to demonstrate that the district court's decision was an abuse of discretion. *See United States v. Dublin*, 572 F.3d 235, 237 (5th Cir.), *cert. denied*, 130 S. Ct. 517 (2009). Accordingly, the Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.